

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

IN RE PHARMACEUTICAL INDUSTRY)
AVERAGE WHOLESALE PRICE) MDL No. 1456
LITIGATION)
)
) CIVIL ACTION: 01-CV-12257 PBS
)
THIS DOCUMENT RELATES TO)
Master File No. 01-CV-12257-PBS) Judge Patti B. Saris
)
) Chief Mag. Judge Marianne B. Bowler
)

STATUS REPORT JUNE 1, 2005

Pursuant to the Court's June 17, 2004 Procedural Order, the undersigned counsel for Plaintiffs and Defendants hereby submit the attached status report to the Court listing the status of all pending motions to date.

Respectfully Submitted,

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ON BEHALF OF ALL PLAINTIFFS

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CERTIFICATE OF SERVICE

I hereby certify that I, Thomas M. Sobol, an attorney, caused a true and correct copy of the foregoing Status Report to be served on all counsel of record electronically on June 1, 2005, pursuant to Section D of Case Management Order No. 2.

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MDL 1456 STATUS CHART – GOVERNMENT ENTITY CASES

| GOVERNMENT ENTITY CASES | MDL DOCKET NUMBER | ORIGINAL JURISDICTION | STATUS |
|---|-------------------|-----------------------|---|
| Montana v. Abbott Labs., Inc. et al. | 02-CV-12084-PBS | Removed to D. Mont. | <ul style="list-style-type: none"> November 24, 2004 – Watson Pharmaceuticals, Inc.’s Motion to Dismiss the State of Montana’s Second Amended Complaint <i>sub judice</i> <ul style="list-style-type: none"> December 8, 2004 – State of Montana’s Opposition to Motion to Dismiss the State of Montana’s Second Amended Complaint December 16, 2004 – Watson Pharmaceuticals, Inc.’s Reply Memorandum in Support of Motion to Dismiss the State of Montana’s Second Amended Complaint (leave to file granted December 21, 2004) |
| Nevada v. American Home Products, Inc. et al (“Nevada II”) | 02-CV-12086-PBS | Removed to D. Nev. | <ul style="list-style-type: none"> November 24, 2004 – Watson Pharmaceuticals, Inc.’s Motion to Dismiss the State of Nevada’s Amended Complaint <i>sub judice</i> <ul style="list-style-type: none"> December 8, 2004 – State of Nevada’s Opposition to Motion to Dismiss the State of Nevada’s Second Amended Complaint December 16, 2004 – Watson Pharmaceuticals, Inc.’s Reply Memorandum in Support of Motion to Dismiss the State of Nevada’s Second Amended Complaint (leave to file granted December 21, 2004) |
| California <i>ex rel.</i> Ven-A-Care of the Florida Keys, Inc. v. Abbott Labs., Inc. et al. | 03-CV-11226-PBS | Removed to C.D. Cal. | <ul style="list-style-type: none"> No pending motions |
| County of Nassau v. Abbott Labs., Inc. et al. | n/a | E.D.N.Y. | <ul style="list-style-type: none"> December 10, 2004 – Notice of Related Action filed with the Judicial Panel on Multidistrict Litigation January 4, 2005 – JPMDL issued conditional transfer order January 28, 2005 – case officially transferred to MDL April 8, 2005 – Case Management Conference held |
| County of Suffolk v. Abbott Labs., Inc. et al. | 03-CV-10643-PBS | E.D.N.Y. | <ul style="list-style-type: none"> March 30, 2005 – County of Suffolk’s Motion to Renew Its Second Motion to Compel the Production of Discovery From the Schering-Plough Corporation <i>sub judice</i> <ul style="list-style-type: none"> April 6, 2005 – Schering Plough’s Opposition to County of Suffolk’s Motion to Renew Its Second Motion to Compel the Production of Discovery |

| GOVERNMENT ENTITY CASES | MDL DOCKET NUMBER | ORIGINAL JURISDICTION | STATUS |
|---|-------------------|-----------------------|---|
| | | | <ul style="list-style-type: none"> April 8, 2005 – Case Management Conference held |
| County of Rockland v. Abbott Labs., Inc. et al. | 03-CV-12347-PBS | S.D.N.Y. | <ul style="list-style-type: none"> April 8, 2005 – Case Management Conference held |
| County of Westchester v. Abbott Labs., Inc. et al. | n/a | S.D.N.Y. | <ul style="list-style-type: none"> April 8, 2005 – Case Management Conference held |
| City of New York v. Abbott Labs., Inc. et al. | n/a | S.D.N.Y. | <ul style="list-style-type: none"> September 24, 2004 – Conditional transfer order issued by Judicial Panel on Multidistrict Litigation; no opposition filed October 18, 2004 – case officially transferred to MDL April 8, 2005 – Case Management Conference held |
| County of Onondaga v. Abbott Labs., Inc. et al. | n/a | S.D.N.Y. | <ul style="list-style-type: none"> February 9, 2005 – Notice of Related Action filed with the JPMDL |
| County of Chautauqua v. Abbott Labs., Inc. et al.; County of Wayne v. Abbott Labs., Inc. et al.; County of Monroe v. Abbott Labs., Inc. et al.; County of Allegany v. Abbott Labs., Inc. et al.; County of Yates v. Abbott Labs., Inc. et al.; County of Erie v. Abbott Labs., Inc. et al. | n/a | W.D.N.Y. | <ul style="list-style-type: none"> April 18, 2005 – Notice of Related Action filed with the JPMDL |

| GOVERNMENT ENTITY CASES | MDL DOCKET NUMBER | ORIGINAL JURISDICTION | STATUS |
|--|-------------------|----------------------------------|--|
| County of Chenango v. Abbott Laboratories, Inc. et al.; County of Tompkins v. Abbott Laboratories, Inc. et al.; County of Washington v. Abbott Laboratories, Inc. et al.; County of Herkimer v. Abbott Laboratories, Inc. et al.; County of Albany v. Abbott Laboratories, Inc. et al.; County of Cayuga v. Abbott Laboratories, Inc. et al.; County of Rensselaer v. Abbott Laboratories, Inc. et al.; County of Cattaraugus v. Abbott Laboratories, Inc. et al.; County of Broome v. Abbott Laboratories, Inc. et al.; County of Warren v. Abbott Laboratories, Inc. et al.; County of Greene v. Abbott Laboratories, Inc. et al.; County of Saratoga v. Abbott Laboratories, Inc. et al.; County of Oneida v. Abbott Laboratories, Inc. et al. | n/a | W.D.N.Y. | <ul style="list-style-type: none"> • April 22, 2005 – Notice of Related Action filed with the JPMDL |
| County of Geneseev. Abbott Labs., Inc. et al.; County of Fulton v. Abbott Labs., Inc. et al.; County of Steuben v. Abbott Labs., Inc. et al.; County of Putnam v. Abbott Labs., Inc. et al.; | n/a | W.D.N.Y. N.D.N.Y. S.D.N.Y. | <ul style="list-style-type: none"> • May 24, 2005 – Notice of Related Action filed with the JPMDL |

MDL 1456 STATUS CHART – PRIVATE CLASS CASES

| PRIVATE CLASS CASES | MDL DOCKET NO. | ORIGINAL JURISDICTION | STATUS |
|----------------------------------|--------------------------------|------------------------------------|---|
| Master Consolidated Class Action | Master File 01-CV-12257-PBS | D. Mass. pursuant to JPML Order | <ul style="list-style-type: none"> • May 3, 2004 – Plaintiffs' Motion to Compel The Production of Documents Created During the Relevant Time Period from Defendants Abbott Laboratories, AstraZeneca, Schering Plough, Sicor and Together Rx Defendants <i>sub judice</i> (Magistrate Bowler) <ul style="list-style-type: none"> ○ May 17, 2004 – Certain Defendants' Notice of Opposition to Plaintiffs' Motion to Compel the Production of Certain Documents and Consent Motion for an Extension of Time ○ May 26, 2004 – Notice of Withdrawal of Plaintiffs' Motion to Compel the Production of Documents Created During the Relevant Time Period Directed at Defendant Schering-Plough (<i>Note: withdrawal applies only to Schering-Plough</i>) ○ May 27, 2004 – Consent Motion for an Extension of Time to Oppose the Motion to Compel ○ May 27, 2004 – Opposition of the Together Rx Defendants to Plaintiffs' Motion to Compel the Production of Documents ○ May 28, 2004 – Notice Of Withdrawal Of Plaintiffs' Motion To Compel The Production Of Documents Created During The Relevant Time Period Directed at Defendant Abbott Laboratories (<i>Note: withdrawal applies only to Abbott Laboratories</i>) ○ June 8, 2004 – Notice of Withdrawal of Plaintiffs' Motion to Compel the Production of Documents Created During the Relevant Time Period Directed at Defendant AstraZeneca. (<i>Note: withdrawal applies only to AstraZeneca</i>) ○ June 9, 2004 – Plaintiffs' Reply Memorandum In Support of Motion To Compel The Production of Documents Created During The Relevant Time Period From The Together Rx Defendants ○ June 22, 2004 – Order granting Plaintiffs' Motion to Withdraw Motion to Compel Directed at Abbott Laboratories ○ June 22, 2004 – Order granting AstraZeneca's Assented to Motion for Extension of Time to File Response to Plaintiffs' Motion to Compel ○ June 22, 2004 – Order finding as Moot AstraZeneca's Motion for Extension of Time to Oppose Plaintiffs' Motion to Compel ○ Awaiting scheduling of hearing or ruling by Court as to Together Rx Defendants. |

| PRIVATE CLASS CASES | MDL DOCKET NO. | ORIGINAL JURISDICTION | STATUS |
|--|----------------|-----------------------|--|
| Master Consolidated Class Action (continued) | | | <ul style="list-style-type: none"> • September 3, 2004 – Plaintiffs' Motion for Class Certification <i>sub judice</i> (Judge Saris) <ul style="list-style-type: none"> ○ October 25, 2004 – Track 1 Defendants' Consolidated and Individual Opposition to Plaintiffs' Motion for Class Certification, with supporting declarations and exhibits ○ December 17, 2004 – Plaintiffs' Amended Motion for Class Certification ○ December 17, 2004 – Plaintiffs' Reply Memoranda to Consolidated and Individual Oppositions to Plaintiffs' Motion for Class Certification ○ January 21, 2005 – Track 1 Defendants' Consolidated and Individual Surreplies to Plaintiffs' Motion for Class Certification, with supporting declarations and exhibits ○ February 8, 2005 – Memorandum of the Attorney General of the Commonwealth of Pennsylvania in Opposition to Class Certification ○ February 10, 2005 – State of California's and Relator's Statement of Position Regarding Certification of Class ○ March 10, 2005 – Track 1 Defendants' Comments on the Report of Dr. Ernst R. Berndt ○ March 10, 2005 – Plaintiffs' Memorandum Regarding the Berndt Report ○ March 25, 2005 – Order of Judge Patti B. Saris striking Rebuttal Declaration of Raymond S. Hartman in Response to the Sur-Reply Declaration of Steven J. Young. • October 25, 2004 – Track 1 Defendants' Motion to Strike the Declaration of Raymond S. Hartman <i>sub judice</i> (Judge Saris) <ul style="list-style-type: none"> ○ December 17, 2004 – Plaintiffs' Memorandum in Opposition to Motion to Strike the Declaration of Raymond S. Hartman ○ January 21, 2005 – Track 1 Defendants' Reply in Support of Their Motion to Strike the Declaration of Raymond S. Hartman • December 17, 2004 – Plaintiffs' Motion to Strike the Declaration of Eric M. Gaier, Ph.D <i>sub judice</i> (Judge Saris) <ul style="list-style-type: none"> ○ January 21, 2005 – Track 1 Defendants' Opposition to Plaintiffs' Motion to Strike the Declaration of Eric M. Gaier, Ph.D ○ February 2, 2005 – Plaintiffs' Reply in Support of Their Motion to Strike the Declaration of Eric M. Gaier, Ph.D |

| PRIVATE CLASS CASES | MDL DOCKET NO. | ORIGINAL JURISDICTION | STATUS |
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| Master Consolidated Class Action (continued) | | | <ul style="list-style-type: none"> • December 17, 2004 – Plaintiffs' Motion to Strike the Declaration of Steven J. Young <i>sub judice</i> (Judge Saris) <ul style="list-style-type: none"> ○ January 21, 2005 – Track 1 Defendants' Opposition to Plaintiffs' Motion to Strike the Declaration of Steven J. Young ○ February 4, 2005 – Plaintiffs' Reply in Support of Their Motion to Strike the Declaration of Steven J. Young • December 17, 2004 – Plaintiffs' Motion to Strike Portions of the Declaration of Robert P. Navarro <i>sub judice</i> (Judge Saris) <ul style="list-style-type: none"> ○ January 21, 2005 – Track 1 Defendants' Opposition to Plaintiffs' Motion to Strike Portions of the Declaration of Robert P. Navarro ○ February 2, 2005 – Plaintiffs' Reply in Support of Their Motion to Strike Portions of the Declaration of Robert P. Navarro • February 3, 2005 – Plaintiffs' Motion to Compel and for Finding that AstraZeneca's Pricing, Marketing, and Sales of its Products are not Protected by the Attorney-Client Privilege <i>sub judice</i> <ul style="list-style-type: none"> ○ February 24, 2005 – AstraZeneca Pharmaceuticals LP's Opposition to Plaintiffs' Motion to Compel and for Finding that AstraZeneca's Pricing, Marketing, and Sales of its Products are not Protected by the Attorney-Client Privilege, and Cross-Motion for a Protective Order Relating to the April 2, 2004 Amended Notice of Rule 30(b)(6) Deposition ○ March 20, 2005 – Reply in Support of Plaintiffs' Motion to Compel and For Finding That Documents and Testimony Related to AstraZeneca's Pricing, Marketing and Sales of Its Products Are Not Protected by the Attorney-Client Privilege and Opposition to AstraZeneca's Cross-Motion for a Protective Order ○ May 31, 2005 – Affidavit of Stuart Fullerton in response to Court Order dated May 17, 2005 • February 23, 2005 – Third Party Schaller Anderson Inc.'s Objection and Motion to Quash Plaintiffs' Subpoena • March 10, 2005 – Plaintiffs' Motion to Strike Sur-Reply Declaration of Steven J. Young <i>sub judice</i> <ul style="list-style-type: none"> ○ April 7, 2005 – Track 1 Defendants' Opposition to Plaintiffs' Motion to Strike Sur-Reply Declaration of Steven J. Young ○ April 27, 2005 – Order Granting Track 1 Defendants' Motion to |

| PRIVATE CLASS CASES | MDL DOCKET NO. | ORIGINAL JURISDICTION | STATUS |
|--|-----------------|-----------------------|--|
| Master Consolidated Class Action (continued) | | | <p>File under Seal memorandum of law in opposition to Plaintiff's Motion to Strike the Sur-Reply Declaration of Steven J. Young.</p> <ul style="list-style-type: none"> • March 14, 2005 – Plaintiffs' Motion for Sanctions Based on Defendants' Submittal of Sur-Reply Declaration of Steven J. Young <ul style="list-style-type: none"> ○ Track 1 Defendants' Opposition to Plaintiffs' Motion to Strike Sur-Reply Declaration of Steven J. Young ○ April 27, 2005 – Order Granting Track 1 Defendants' Motion to File under Seal memorandum of law in opposition to Plaintiff's Motion to Strike the Sur-Reply Declaration of Steven J. Young. ○ Plaintiffs have requested a hearing with the Court on this motion. • March 21, 2005 – B. Braun Medical Inc.'s Motion to Dismiss the Second Amended Master Consolidated Class Action Complaint <i>sub judice</i> <ul style="list-style-type: none"> ○ April 4, 2005 – Class Plaintiffs' Opposition to B. Braun Medical Inc.'s Motion to Dismiss the Second Amended Master Consolidated Class Action Complaint ○ April 27, 2005 – B. Braun Medical Inc.'s Reply Memorandum in Support of Its Motion to Dismiss the Second Amended Master Consolidated Class Action Complaint • May 23, 2005 – B. Braun Medical Inc.'s Motion for a Protective Order Staying Discovery Pending Resolution of its Motion to Dismiss |
| Congress of California Seniors v. Abbott Labs., Inc. et al. | 03-CV-10216-PBS | Removed to C.D. Cal. | <ul style="list-style-type: none"> • Consolidated into Master Class Action |
| International Union of Operating Engineers, Local No. 68 Welfare Fund v. AstraZeneca PLC et al. | 04-11503-PBS | Removed to D.N.J. | <ul style="list-style-type: none"> • Motion to Remand filed in District of New Jersey prior to transfer; briefed while pending in District of New Jersey <ul style="list-style-type: none"> ○ April 22, 2005 – Supplemental Brief in Support of Motion for Remand by Plaintiff International Union of Operating Engineers Local No. 68 Welfare Fund ○ May 6, 2005 – Supplemental Brief in Opposition of Motion for Remand by Plaintiff International Union of Operating Engineers Local No. 68 Welfare Fund due to be filed |